

EXHIBIT D

To: Ultrasonic Power Corporation (jmakeever@leydig.com)
Subject: TRADEMARK APPLICATION NO. 78386756 - SIMULTANEOUS MULTI-FREQUENCY - 502727
Sent: 9/29/04 9:33:34 PM
Sent As: ECOM105@USPTO.GOV
Attachments: Attachment - 1
Attachment - 2

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/386756

APPLICANT: Ultrasonic Power Corporation

78386756

CORRESPONDENT ADDRESS:

Jeffery J. Makeever
Leydig, Voit & Mayer, Ltd.
Suite 300
6815 Weaver Road
Rockford, IL 61114-8018

RETURN ADDRESS:

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

MARK: SIMULTANEOUS MULTI-FREQUENCY

CORRESPONDENT'S REFERENCE/DOCKET NO: 502727

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS:

jmakeever@leydig.com

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/386756

The assigned examining attorney has reviewed the referenced application and determined the following.

Search Results

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Section 2(e)(1) - Descriptive Refusal

Registration is refused because the proposed mark merely describes a feature or characteristic of applicant's goods and/or services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); TMEP §§1209 *et seq.*

A mark is merely descriptive under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1), if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods/services. *In re Gyulay*, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986); *In re MetPath Inc.*, 223 USPQ 88 (TTAB 1984); *In re Bright#Crest, Ltd.*, 204 USPQ 591 (TTAB 1979); TMEP §1209.01(b).

It is not necessary that a term describe all of the purposes, functions, characteristics or features of the goods/services to be merely descriptive. It is enough if the term describes one attribute of the goods/services. *In re H.U.D.D.L.E.*, 216 USPQ 358 (TTAB 1982); *In re MBAssociates*, 180 USPQ 338 (TTAB 1973). TMEP §1209.01(b). The mark SIMULTANEOUS MULTI-FREQUENCY is merely descriptive of ultrasonic cleaning systems and transducers which produce ultrasonic waves at multiple frequencies at the same time. Please note the attached online advertisements describing applicant's product and that of another. These promotional materials confirm that the goods use multiple frequencies of ultrasonic waves for cleaning purposes.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following issue.

Request for Information

The nature of the goods on which the applicant uses the mark is not clear from the present record. The applicant must submit samples of advertisements or promotional materials. If such materials are not available, the applicant must submit a photograph of the goods and describe their nature, purpose and channels of trade. 37 C.F.R. §2.61(b); TMEP §§814 and 1402.01(d).

NOTICE: TRADEMARK OPERATION RELOCATING OCTOBER AND NOVEMBER 2004

The Trademark Operation is relocating to Alexandria, Virginia, in October and November 2004. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Applicants, registration owners, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at www.uspto.gov.

/John E. Michos/

Trademark Attorney

Law Office 105

(703) 308-9105 ext. 152

How to respond to this Office Action:

You may respond using the Office's Trademark Electronic Application System (TEAS) (visit <http://www.uspto.gov/teas/index.html> and follow the instructions therein), but you **must** wait until at least **72 hours** after receipt of the e-mailed office action. **PLEASE NOTE:** *For those with applications filed pursuant to Section 66(a) of the Trademark Act, all responses to Office actions that include amendments to the identifications of goods and/or services must be filed on paper, using regular mail (or hand delivery) to submit such response. TEAS cannot be used under these circumstances. If the response does not include an amendment to the goods and/or services, then TEAS can be used to respond to the Office action.*

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at
<http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.



**ULTRASONIC POWER
CORPORATION**

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Freeport, Illinois 61032
United States of America

Phone: 815-235-6020
Toll Free: 1-800-576-0168

Fax: 815-232-2160
Email sales@upcorp.com

Ultrasonic Cleaning Generators

For over 20 years, Ultrasonic Power Corporation has been manufacturing ultrasonic generators and transducers that are the industry standard for quality and reliability.

Model 5300 Sweep Frequency Cleaning Generators

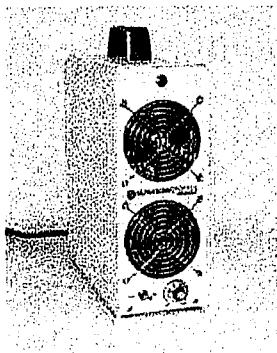


The UPC Model 5300 is the most electrically efficient ultrasonic cleaning generator available on the market today. This powerful, state-of-the-art generator has two simple controls for easy use. When applied with "Vibra-Bar" transducers, the 5300 delivers "Simultaneous Multi-Frequency" for both an electrical sweep of the base frequency, and a mechanical multi-frequency movement of the "Vibra-Bar" transducers. Producing uniform cavitation with aqueous as well as semi-aqueous material, this combination provides the most effective cleaning action available in the industry.

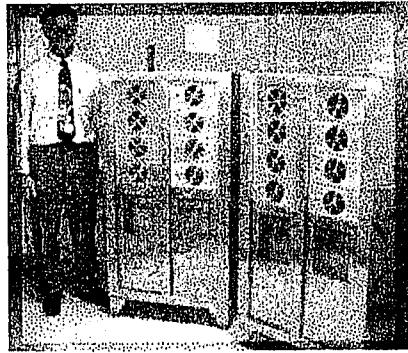


Features:

- ◆ 40 kHz "Simultaneous Multi-Frequency"
- ◆ 500 Watt or 1000 Watt 100/120/220/230/240/480 Volt, 50/60 Hz
- ◆ Capable of Continuous Operation
- ◆ Power Intensity Control
- ◆ Solid State Circuitry
- ◆ Meets FCC Requirements
- ◆ Adjustable Sweep Rate: 100 to 1000 Hz
- ◆ Circuit design protects from shorts or open in output
- ◆ Completely interchangeable with standard generator unit
- ◆ Full Two year Warranty
- ◆ A sweep frequency circuit which operates at 40 kHz and sweeps 2 kHz. The speed of sweep can be adjusted from the range of 100 to 1000 times per second depending on the desire of the end user and the fluid that will be utilized in the tank.
- ◆ The 5300 has the ability to perform in a variety of aqueous and semi-aqueous chemistries.
- ◆ The 5300 has constant output power with less than 5% change in spite of load and/or temperature variations of the liquid volume and product mass being cleaned. And the 5300 solid state circuitry is protected from shorts and opens on the load side.



40 kHz, 1500 watt, 240 vao Ultrasonic Generator



Two Stainless Steel Ultrasonic Generator Cabinets 8,000 Watts Each Cabinet



Generator with Digital Timer

Musicare inc.

"We put children and music together"

Rentals
Repairs

Sales

About Musicare

Contact Us

Rental Reservations

Coloured Saxophones

Rental Catalog



Music funs begins at Musicare

FOR STUDENTS FOR PARENTS FOR TEACHERS

Cleaning
Ultrasonics
Repair Stories



"As a professional trumpet player and musician, my instruments have to be working perfectly all the time. For the past 25 years, I have trusted Musicare to service all my instruments. I recently had a "C" trumpet cleaned in Musicare's ultrasonic cleaning tank. Being on hand to observe the process, I couldn't believe the amount of "junk" that came out of the horn. After the technician had reassembled my instrument, it felt and played like new. I highly recommend this cleaning process to all brass players. It's worth it."

Sidney Arnold
Member of the
RCMP Band (Ret.)

The power of ultrasonics ensures proper cleaning of all components.

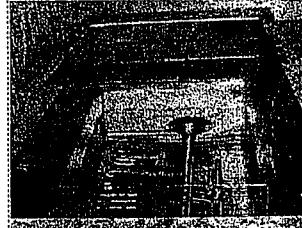
Ultrasonic technology is currently used in hospitals, dental labs and manufacturing centers of high precision assemblies where absolute cleaning is a must. Musicare's Ultrasonic system will clean everything from piccolos to giant tubas and mouthpieces. To introduce our cleaning services, we're offering all new customers a 10% discount on their first instrument cleaning. To take advantage of this special offer, contact us, print and present the coupon in person or if shipping, include it in the case.

Ultrasonic frequency is defined as the frequency of an acoustic wave at a frequency above the audible range for humans. The band instrument cleaning system operates at a base frequency of 40,000 cycles per second or 40 kilohertz (kHz). Due to the design of the "Vibra-bar" transducer, "Simultaneous Multi-Frequency" is produced. This "Simultaneous Multi-Frequency" produces an output from 40kHz to 90kHz. As the acoustic waves are induced into a liquid media, it creates alternating high pressure and low pressure fronts to travel through the liquid. The high pressure fronts are referred to as compression and the low pressure fronts as rarefaction. These alternating compression and rarefaction fronts react with microscopic bubbles in the liquid to produce cavitation.

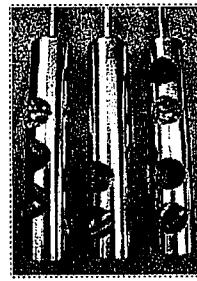
The cavitation phenomenon works on microscopic bubbles of entrained air and/or vapor of the liquid. During a rarefaction cycle, the bubble will tend to grow as the internal pressure exceeds the external pressure. During the compression cycle, the bubble will retract due to greater external pressure. Over several cycles, the bubble will undergo alternating cycles, but will have a tendency to increase in dimension until a critical size is attained at which time, during a compression cycle, the bubble will collapse releasing its stored energy. This release of energy produces a high amount of mechanical disruption (scrubbing action) and temperature release (as high as 5000 degrees C) localized to the point of implosion. The combination of these factors causes particles to be separated from surfaces and enhanced chemical activity for soil dissolution.

The power of Ultrasonics lies not only in its ability to clean, but in its ability to penetrate into areas inaccessible by any other method. Since the power of cavitation is able to go wherever the liquid goes, entire assemblies can be immersed in a bath and all surfaces, both external and internal, blind holes and crevices, will be cleaned simultaneously. This ensures proper cleaning of components. Although Ultrasonics is an aggressive cleaning technique, it is non-abrasive and can produce extremely clean parts without harm to product surfaces.

Does your instrument need cleaning or overhaul?



The Ultrasonic Tank in action.



Tuba valves after cleaning.



"Hairball" of saliva junk removed from trumpet mouthpiece.

To introduce our cleaning services, we're offering all new customers a 10% discount on their first instrument cleaning. To take advantage of this special offer, print and present the coupon in person or if shipping, include it in the case. Coupon good for one cleaning only.

Our Ultrasonic system will clean everything from piccolos to giant tubas and mouthpieces.

Ultrasonic Cleaning 10% Off

MUSICARE INC.
4534 Anderson Rd., Carlsbad Springs, ON, Canada
Tel: 1-800-361-3323